

REMARKS

Status of the Claims

In the present Amendment, claim 1 is amended for purposes of clarification and to require step (d). Accordingly, claims 5, 6, 9, 11 and 12 are canceled, and claims 7 and 8 are amended for consistency.

In addition, Claim 10 is amended to depend from claim 7 for proper antecedent basis.

Claim 26 is amended to depend from claim 1 for proper antecedent basis. Further, claim 29 is added. Claim 29 is similar to claim 26, except for its dependency on claim 25. Both claims 25 and 26 are directed to the alkali insoluble fibrous component.

Claim 28 is amended to depend from claim 27.

No new matter is added, and entry of the Amendment is requested. Upon entry of the Amendment, claims 1-4, 7-8, 10 and 13-29 will be pending.

Allowable Subject Matter

Applicants thank the Examiner for indicating in Paragraph No. 8, on page 5 of the Office Action, that independent claim 27 is allowed. In this regard, Applicants note that claim 28 is amended herein to depend from allowed claim 27 and is thus allowable.

In addition, Applicants thank the Examiner for indicating in Paragraph No. 9, at page 5 of the Office Action, that claims 5-8, 10 and 26 contain allowable subject matter. According to the Examiner, the prior art does not disclose or teach further processing of an acid soluble lupin protein component. In this regard, Applicants note that claim 1 is amended herein to essentially incorporate the subject of claim 5 by requiring a step (d) of recovering a lupin protein isolate (PF2), from said acid soluble lupin protein containing component, followed by dehydrating the

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acid soluble lupin protein component to give a third food grade lupin protein fraction (PF3).

Accordingly, claim 1 and the claims depending therefrom should be allowable.

The Present Claims are Clear and Definite

In Paragraph No. 1, on page 2 of the Office Action, claims 5-8, [10] and 26 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite.

Applicants traverse and respectfully request the Examiner to reconsider and withdraw the rejection in view of the amendments to the claims and the following remarks.

With respect to the claims 5-8, the Examiner indicates that it is not clear whether the process steps recited by these claims (which modify steps (d) or (e) of claim 1) are optional, since steps (d) and (e) are optional in claim 1. In response, without conceding to the merits of the Examiner's rejection, claim 1 is amended herein to require step (d). Thus, claims 5 and 6 are canceled, and claims 7 and 8 are amended to refer to step (d).

With respect to claim 10, the Examiner indicates that the recitation "food grade organic solvent" lacks antecedent basis. In response, claim 10 is amended herein to depend from claim 7, since claim 7 provides that step (d) is performed with a C₁-C₆ food grade organic solvent.

With respect to claim 26, the Examiner points out that claim 26 recites a process, but depends from product claim 21. In response, claim 26 is amended herein to depend from process claim 1. In addition, claim 29 is added, which is similar to claim 26, except for its dependency on claim 25. Both claims 25 and 26 are directed to the alkali insoluble fibrous component.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the Examiner's indefiniteness rejection of claims 5-8, [10] and 26 under 35 U.S.C. § 112, second paragraph.

The Present Claims are Patentable over King

In Paragraph No. 3, on page 3 of the Office Action, claims 1, 4, 9, 11-18, 23-25 and 28 are rejected under 35 U.S.C. § 102(b) as being anticipated by King et al. (*Journal of Food Science*, Volume 50 (1985)) (hereinafter “King”).

In addition, in Paragraph No. 5, on page 4 of the Office Action, claims 2 and 3 are rejected under 35 U.S.C. § 103(a) as being unpatentable over King.

Applicants traverse.

As indicated by the Examiner on page 5 of the Office Action, the prior art neither discloses nor teaches a process for the production of lupin extracts where the process includes further processing of the acid soluble lupin protein component (which, as was noted above by Applicants, is now required in step (d) of amended claim 1). Accordingly, Applicants submit that the presently claimed invention, as defined in claim 1, is patentable over King.

In addition, the Examiner takes the position that the prior art teaches a person of ordinary skill in the art to discard the acid soluble protein component. Thus, if this were the case, Applicants submit that it would not have been obvious to a person of ordinary skill in the art at the time of the invention to develop a process for producing lupin extracts by isolating and further processing the acid soluble protein component.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejections of the present claims based on King.

The Present Claims are Patentable over King in view of Krinski et al.

In Paragraph No. 6, on page 4 of the Office Action, claims 19 and 20 are rejected under 35 U.S.C. § 103(a) as being unpatentable over King taken together with Krinski et al. (U.S. Patent No. 5,766,331) (hereinafter “Krinski”).

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Applicants traverse.

Claims 19 and 20 depend from claim 1. Krinski fails to cure the deficiencies of King explained above. Thus, claims 19 and 20 are patentable over King in view of Krinski by virtue of their dependency on claim 1 and the additional elements recited therein.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 19 and 20 as being unpatentable over King in view of Krinski.

The Present Claims are Patentable over King in view of Bertram et al.

In Paragraph No. 7, on page 5 of the Office Action, claims 21 and 22 are rejected under 35 U.S.C. § 103(a) as being unpatentable over King taken together with Bertram et al. (U.S. Patent No. 4,056,658) (hereinafter “Bertram”).

Applicants traverse.

Claims 21 and 22 depend from claim 1. Bertram fails to cure the deficiencies of King explained above. Thus, claims 21 and 22 are patentable over King in view of Krinski by virtue of their dependency on claim 1 and the additional elements recited therein.

In view of the above, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 21 and 22 as being unpatentable over King in view of Bertram.

Conclusion

Reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited.

If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the local, Washington, D.C., telephone number listed below.

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The U.S. Patent and Trademark Office is hereby directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880.

Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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